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Date of Signature and Deposit: August 28, 2006

Bennett J. Berson, Reg. No. 37,094

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jonathan C. Makielski, *et al.*

Date: August 28, 2006

Serial No.: 10/632,342

Art Unit: 1646

Filing Date: August 1, 2003

Examiner: Michael D. Pak

Title: SODIUM CHANNEL ALPHA SUBUNIT  
VARIANTS

File No.: 960296.98989

Confirmation No.: 4060

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RESPONSE TO REQUIREMENT FOR RESTRICTION

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Mail Stop Amendment  
Commissioner for Patents  
P O Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In an Office Action mailed June 30, 2006, the Examiner in charge of the above-identified application divided the claims into eight (8) groups and required restriction to one of the groups. In response to this requirement, Applicants provisionally elect Group I (Claims 1-29), with traverse and without prejudice to the eventual filing of a divisional application on any of restriction Groups II to VIII.

The requirement is respectfully traversed on the grounds that other claims not now in Group I should be added into the provisionally elected Group I and examined with the Group I claims. Reconsideration of the requirement for restriction is respectfully requested. Specifically, the claims of Group IV and Claim 47 from Group V should be in Group I, as each of Claims 45-47 recites a cell containing a polynucleotide within the scope of Group I, already acknowledged by the Examiner to include host cells that contain the recited polynucleotides. Applicants believe that it represents no additional serious burden on the Examiner to include these claims in Group I for examination, as the search for relevant

polynucleotides in the additional claims should be co-extensive with those of the provisionally elected claims.

Applicants point out that Claim 48 is, apparently inadvertently, said to be in both Groups V and VI. Applicants respectfully suggest that Claim 48 should not be in Group V as it does not on its face relate to identifying an agent by expression of sodium channel mRNA.

The Examiner also required election among the sequences listed in the Sequence Listing. In response to this requirement, Applicants provisionally elect polynucleotide SEQ ID NO: 7, with traverse. Specifically, Applicants traverse the requirement for election and note that the sequences contained in the Sequence Listing are variants of a shared sequence. The close structural relationship among the polynucleotide sequences is detailed in paragraph [0029] of the application as filed. As described in the specification, the sequences vary between one of two positions -- position 558 (being either Arg or His) and position 1077 (Gln or absent). Accordingly, reconsideration of the requirement for election is respectfully requested.

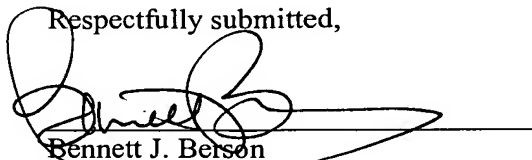
Extension of time

A petition for one month extension of time accompanies this response so the response will be deemed to have been timely filed. No additional extension of time is believed due, but should any other extension be required in this or any subsequent response, please consider this to be a petition for the appropriate extension of time and a request to charge the petition fee due to Deposit Account No. 17-0055.

Fees

No fee other than the extension fee is believed due in connection with this submission. However, if a fee is due, in this or any subsequent response, please charge the fee to the same Deposit Account.

Respectfully submitted,



Bennett J. Berson

Reg. No. 37,094

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